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13 Attorneys for Defendants
 14 HSBC MORTGAGE CORPORATION (USA) AND
 15 HSBC BANK USA, N.A.

16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN FRANCISCO DIVISION

19 Philip Wong, Frederic Chaussy, and Leslie
 20 Marie Shearn, individually, on behalf of all
 21 others similarly situated, and on behalf of
 22 the general public,

23 Plaintiffs,

24 v.
 25 HSBC Mortgage Corporation (USA);
 26 HSBC Bank USA, N.A.; and DOES 1
 27 through 50, inclusive,

28 Defendants.

Case No. C 07 2446 MMC [ECF]

**DECLARATION OF KEVIN
 MACPHERSON IN SUPPORT OF
 DEFENDANTS' OPPOSITION TO
 PLAINTIFFS' MOTION FOR
 CONDITIONAL CERTIFICATION,
 PRODUCTION OF UPDATED CLASS
 LIST, AND PARTIAL SUMMARY
 JUDGMENT**

Date: February 8, 2008
 Time: 9:00 a.m.
 Courtroom: 7 (19th Floor)
 Judge: Hon. Maxine M. Chesney
 Complaint Filed: June 29, 2007 (Amended)
 Trial Date: Not Yet Set

1 I, Kevin MacPherson, hereby declare and state:

2 1. I have personal knowledge of the facts set forth below. If called as a witness,
 3 I could and would testify to the following:

4 2. I am employed by HSBC Bank USA, N.A. ("HSBC Bank"). I am currently
 5 the manager of the entire Rockville Center Premier Branch. Before January 2007, I was the manager
 6 of the Premier Center, which handled the affluent customer base at the Rockville Center Premier
 7 Branch, from its opening in October 2005.

8 3. Premier Centers are bank branches that focus on customers that have deposits
 9 of \$100,000.00 or more. The goal of Premier Centers is to provide superior service.

10 4. HSBC Bank refers customers who ask about mortgages to HSBC Mortgage.

11 5. HSBC Mortgage assigns certain loan officers who specialize in providing
 12 mortgages to high income customers to receive the referrals from the Premier Center that I manage.
 13 They also sell loans to mass market customers.

14 6. The HSBC Mortgage loan officer who was assigned to receive referrals from
 15 my branch when it opened in October 2005 was Karen Flanagan, who I am informed has opted to
 16 participate in this lawsuit. Ms. Flanagan was not an employee of HSBC Bank, and I was not her
 17 manager. I or another bank employee would call Ms. Flanagan on her cell phone when a customer
 18 wanted to find out information about mortgages.

19 7. Ms. Flanagan was also assigned to receive referrals from another bank branch.
 20 She did not spend all or even half of her time at the Rockville Premier Center.

21 8. During the days she came to the Rockville Centre, she usually spent less than
 22 one-half of the day at the bank. Sometimes a week would go by without her coming into the branch
 23 at all. Also, if she was at the Rockville Centre and received a call from another prospective client,
 24 she would leave to meet with that client. For the most part, Ms. Flanagan set her own schedule.

25 9. The loan officer who currently receives referrals from the Rockville Premier
 26 Centre spends approximately 1.5 days a week at the bank. He spends most of that time meeting with
 27 clients that he has scheduled appointments with.

28

1 10. The HSBC Mortgage loan officers that receive referrals from the Rockville
2 Premier Center are not under my management. They are in charge of their own schedules. They are
3 free to meet with clients at the bank. I allow them to use one of the open desks for this purpose.
4 However, they make their own appointments and can also meet with clients we refer to them in other
5 places.

6 I declare under penalty of perjury under the laws of the States of California and New
7 York and the United States of America that the foregoing declaration is true and correct to the best
8 of my personal knowledge. *R-CK 3.11e*

9 Executed this 18th day of January, 2008, in CENTER, New York.

KEVIN MACPHERSON

**DECLARATION OF KEVIN
MACPHERSON**

2.

Case No. C 07 2446 MMC [ECF]